

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Andrew Lockwood, New London

File No. 2011-150

FINDINGS AND CONCLUSIONS

The Complainant filed this Complaint pursuant to Connecticut General Statutes § 9-7b. The Complainant alleges that the City of New London, and its agents, failed to post explanatory texts regarding a referendum in violation of General Statutes § 9-369b (a). The Complainant further alleges that, during the conduct of such referendum, notices were not placed upon voting booths themselves to indicate that a referendum question was on the ballot. Concerning this second allegation, the Complainant does not identify any evidence or specific allegation that, if true, would support a finding of a violation. The Complainant further alleges that he heard multiple and, perhaps, disparate announcements regarding the outcome of the referendum question. Concerning this third allegation, the Complainant does not identify any evidence or specific allegation that, if true, would support a finding of a violation. The Complainant further alleges that a disparity with names appearing on absentee ballots might have caused confusion. Concerning this fourth allegation, the Complainant does not identify any evidence or specific allegation that, if true, would support a finding of a violation. For a related matter, see *Complaint of Debra Shiner, New London*, File No. 2011-151.

After an investigation of the Complaint, the Commission makes the following findings and conclusions:

1. At all times relevant hereto, there was a referendum question before the electors of New London to be decided on November 8, 2011, a date coinciding with the 2011 municipal election in New London (the “referendum question”).
2. At all times relevant hereto, Michael J. Tranchida served as the New London City Clerk (the “Municipal Clerk”).
3. As represented by the subsequent New London City Clerk, and confirmed by a review of the minutes of the relevant meetings, the New London City Council did not authorize any explanatory texts regarding the referendum question.
4. General Statutes § 9-369b (a), governing the authorization of explanatory texts by municipalities for referendum questions, provides:

Except as provided in subsection (b) of this section, any municipality may, by vote of its legislative body, authorize the preparation and

*printing of concise explanatory texts of local proposals or questions approved for submission to the electors of a municipality at a referendum...*The municipal clerk shall cause such question or proposal and such explanatory text to be printed in sufficient supply for public distribution and shall also provide for the printing of such explanations of proposals or questions on posters of a size to be determined by said clerk. At least three such posters shall be posted at each polling place at which electors will be voting on such proposals or questions. Any posters printed in excess of the number required by this section to be posted may be displayed by said clerk at the clerk's discretion at locations which are frequented by the public....
[Emphasis added.]

5. As no explanatory text was authorized or issued by the City of New London or its agents, no such explanatory text was required to be posted.
6. The Complainant additionally alleges that the voting booths themselves did not have any posting or notice stating that there was a referendum on the ballot.
7. Although General Statutes §§ 9-369 and 9-369a contain certain notice requirements for a referendum, they do not include any applicable requirement mandating a posting on voting booths that there is a referendum question on the ballot. Accordingly, even if true, such an absence does not represent a violation of any identifiable statute within the Commission's jurisdiction.
8. The Complainant additionally alleges that he heard disparate announcements regarding the outcome of the referendum question with alleged reports of the outcome as early as 8:45p.m. on November 8, 2011.
9. As represented by the Municipal Clerk, the counting of the absentee ballots was not complete until after 8:45p.m. on November 8, 2011, and there would have been no way of knowing the final count at that time.
10. The Complainant has provided no other information and the investigation has uncovered no information suggesting that this possible miscommunication, even if true, indicates any identifiable violation.
11. The Complainant further alleges that confusion may have resulted from absentee ballots with the names of different candidates. The Complainant does not claim that this represents an actual violation.

12. Based on representations from the Municipal Clerk, the issue of the different names of candidates on certain absentee ballots appears to be the result of the following: Mr. George Potts removed himself from the ballot in the time period permitted. He was replaced by John J. Maynard. The Office of the Secretary of the State informed the registrars of voters to issue new absentee ballots if a voter requested a new ballot. Some voters did request new ballots and those were counted separately.

13. The Secretary of the State is the advisory authority for election administration law. General Statutes § 9-3 provides:

The Secretary of the State, by virtue of the office, shall be the Commissioner of Elections of the state, with such powers and duties relating to the conduct of elections as are prescribed by law and, unless otherwise provided by state statute, the secretary's regulations, declaratory rulings, instructions and opinions, if in written form, shall be presumed as correctly interpreting and effectuating the administration of elections and primaries under this title, except for chapter 155, provided nothing in this section shall be construed to alter the right of appeal provided under the provisions of chapter 54.

14. In accordance with General Statutes § 9-3, the Commission defers to the Office of the Secretary of the State.

ORDER

The following Order is recommended on the basis of the aforementioned findings:

That the matter be dismissed.

Adopted this 19 th day of September, 2012 at Hartford, Connecticut.



Stephen F. Cashman, Chairperson
By Order of the Commission